

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARRYL PRICE,	§
	§
Defendant Below-	§ No. 74, 2012
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 1107003147
Plaintiff Below-	§
Appellee.	§

Submitted: July 16, 2012

Decided: July 24, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 24th day of July 2012, upon consideration of the appellant's Supreme Court Rule 26(c) brief, his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) The defendant-appellant, Darryl Price, was convicted by a Superior Court jury of Driving Under the Influence of Alcohol (DUI) 4th Offense and Careless Driving. The Superior Court immediately sentenced Price to a period of five years at Level V imprisonment to be suspended after serving six months in prison for decreasing levels of supervision. This is Price's direct appeal.

(2) Price's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Price's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Price's attorney informed him of the provisions of Rule 26(c) and provided Price with a copy of the motion to withdraw and the accompanying brief. Price also was informed of his right to supplement his attorney's presentation. Price has not raised any issues for this Court's consideration. The State has responded to the position taken by Price's counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.*

(4) This Court has reviewed the record carefully and has concluded that Price's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Price's counsel has made a

* *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

conscientious effort to examine the record and the law and has properly determined that Price could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Randy J. Holland
Justice